

BAY DELTA CONSERVATION PLAN DRAFT EIS
Briefing Paper for Jane Diamond, Kathleen Johnson- April 30, 2014

Purpose of Briefing: Provide Basis for NEPA/309 Rating Recommendation of (b)(5)(Deliberative)

What is the BDCP?

The BDCP is a Habitat Conservation Plan that is being developed to support the issuance of an Incidental Take Permit under Section 10 of the Endangered Species Act for continued operation of Central Valley Project and State Water Project water facilities. A major component of the Proposed Project and most alternatives is construction and operation of tunnels (Conservation Measure 1) to convey Sacramento River water under the Delta to the existing pumps. The DEIS purports to analyze this component at a project level. Other components include ecosystem restoration and stressor reduction measures (CM2-22), which the DEIS analyzes at a programmatic level.

EPA Involvement:

- EPA has been a cooperating agency since 2008.
- Region 9 staff have routinely participated in meetings with the lead federal agencies during development of the BDCP and DEIS for several years.
- Senior EPA officials have participated in interagency meetings convened by CEQ for at least the past year.
- EPA provided critical comments on the draft BDCP and the Administrative DEIS in April 2012 and July 2013.

EPA's Position

(1) EPA has publicly said that the current exports and diversion facilities are not working for either the fish or the exporters. [We support the concept of "a" new conveyance facility](#) if it is (a) the right size, (b) the right place, and (c) utilizes the right operational parameters.

(2) EPA concurs with the [scientific consensus](#) that identifies (a) aquatic habitat loss and modification, and (b) inadequate freshwater flow regime, as the 2 most critical stressors affecting the Delta ecosystem. The BDCP emphasizes the first factor (habitat) by proposing significant tidal marsh restoration. In return, the BDCP anticipates continuing large diversions of water out of the estuary.

Major Issues

- Implementation of the BDCP would result in:
 - Potentially permanent violations of water quality standards (EC, salinity, possibly others);
 - Adverse effects on existing beneficial uses, such as municipal water supply, agricultural water supply, and protection of aquatic life;
 - Diminished freshwater flows through the Delta, which would preclude recovery of endangered fish populations and restoration of the estuarine ecosystem; and
 - Potentially permanent degradation of habitat conditions for aquatic life
- The DEIS is:
 - Extremely cumbersome and confusing;
 - Inconsistent in its analysis of the alternatives;
 - Full of unsupported conclusions about impacts; and
 - Overly optimistic in the face of significant uncertainty regarding potential performance of the proposed tunnels and the viability of the proposed habitat restoration projects.
- Reasonable alternatives with potentially reduced impacts were not evaluated.

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Interested Parties

- The federal lead agencies (USFWS, NMFS, and BOR) publicly provided highly critical comments on their own Administrative DEIS in July 2013, and have an ongoing list of outstanding issues.
- Independent scientists and public committees have weighed in critically with over half a dozen reports.
- Governor Brown supports doing “something”.
- Senator Feinstein supports the BDCP; other Congressionals are mixed.
- Environmental organizations and in-Delta users are opposed.

Next Steps for EPA:

- (1) Complete internal review and editing of Detailed Comments (target date: 5/12)
- (2) Request Jared’s concurrence on the proposed rating; briefing scheduled for 5/13
- (3) Send letter and Detailed Comments to OFA by 5/14 for HQ review
- (4) Complete Communication Strategy by 5/16
- (5) Receive HQ comments by 5/23; incorporate edits/resolve any HQ concerns;
- (6) Send Final Draft to Jared, Cynthia and Ken on 6/2; await Cynthia’s approval
(Note: KMG will be at HQ 6/3-5 for NEPA/309 National Meeting)
- (7) Jared signs letter; ERS sends final comments to USFWS/NMFS/BOR on 6/13/14.